



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2021-0262; FRL-10025-02-Region 8]

Approval and Promulgation of Implementation Plans; Colorado; Revisions to Regulation Number 7; Aerospace, Oil and Gas, and Other RACT Requirements for 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of State Implementation Plan (SIP) revisions submitted by the State of Colorado on May 14, 2018, May 8, 2019, and May 13, 2020. The revisions are to Colorado Air Quality Control Commission (Commission or AQCC) Regulation Number 7 (Reg. 7). The revisions to Reg. 7 address Colorado's SIP obligation to require reasonably available control technology (RACT) for sources covered by the 2016 oil & natural gas control techniques guidelines (CTG or CTGs) for Moderate nonattainment areas under the 2008 ozone National Ambient Air Quality Standard (NAAQS); update RACT requirements for major sources of volatile organic compounds (VOC) and nitrogen oxides (NOx); reorganize the regulation; add incorporation by reference dates to rules and reference methods; and make typographical, grammatical, and formatting corrections. Also, the EPA is proposing to finalize approval of the State's negative declaration that there are no sources in the Denver Metro/North Front Range (DMNFR) Area subject to the aerospace CTG, which was conditionally approved in our February 24, 2021 rulemaking. The EPA is taking this action pursuant to the Clean Air Act (CAA).

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2021-0262, to the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in www.regulations.gov. To reduce the risk of COVID-19 transmission, for this action we do not plan to offer hard copy review of the docket. Please email or call the person listed in the “**FOR FURTHER INFORMATION CONTACT**” section if you need to make alternative arrangements for access to the docket.

FOR FURTHER INFORMATION CONTACT: Abby Fulton, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, (303) 312-6563, fulton.abby@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

I. What Action is the EPA Taking?

As explained below, the EPA is proposing to approve various revisions to the Colorado SIP that were submitted to the EPA on May 14, 2018, May 8, 2019, May 13, 2020, and March 22, 2021. In particular, we propose to approve certain Reg. 7 rules to meet the 2008 8-hour ozone NAAQS oil and gas CTG RACT requirements for Moderate nonattainment areas that were not acted on in our July 3, 2018¹ and February 24, 2021² rulemakings. We are also proposing to approve certain area source rules as meeting the 2008 8-hour ozone NAAQS RACT requirements for Serious nonattainment areas. Additionally, we are proposing to finalize approval of the State's negative declaration that there are no sources in the DMNFR Area subject to the aerospace CTG, which was conditionally approved in our February 24, 2021³ rulemaking.

The specific bases for our proposed actions, our analyses, and proposed findings are discussed in this proposed rulemaking. Technical information that we are relying on is in the docket, available at <http://www.regulations.gov>, Docket No. EPA-R08-OAR-2021-0262.

II. Background

2008 8-Hour Ozone NAAQS Nonattainment

On March 12, 2008, the EPA revised both the primary and secondary NAAQS for ozone to a level of 0.075 parts per million (ppm) (based on the annual fourth-highest daily maximum 8-hour average concentration, averaged over 3 years), to provide increased protection of public health and the environment.⁴ The 2008 ozone NAAQS retains the same general form and averaging time as the 0.08 ppm NAAQS set in 1997, but is set at a more protective level. Specifically, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual

¹ Final Rule, Approval and Promulgation of State Implementation Plan Revisions; Colorado; Attainment Demonstration for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, and Approval of Related Revisions, 83 FR 31068, 31069-31072.

² Final Rule, Approval and Promulgation of Implementation Plans; Colorado; Revisions to Regulation Number 7 and RACT Requirements for 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 86 FR 11125, 11126 -11127.

³ 86 FR 11125.

⁴ Final rule, National Ambient Air Quality Standards for Ozone, 73 FR 16436 (March 27, 2008). The EPA has since further strengthened the ozone NAAQS, but the 2008 8-hour standard remains in effect. See Final Rule, National Ambient Air Quality Standards for Ozone, 80 FR 65292 (Oct. 26, 2015).

fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm.⁵

Effective July 20, 2012, the EPA designated as nonattainment any area that was violating the 2008 8-hour ozone NAAQS based on the three most recent years (2008–2010) of air monitoring data.⁶ With that rulemaking, the Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado area (Denver or DMNFR Area) area was designated nonattainment and classified as Marginal.⁷ Ozone nonattainment areas are classified based on the severity of their ozone levels, as determined using the area’s design value. The design value is the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration at a monitoring site.⁸ Areas that were designated as Marginal nonattainment were required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2015, based on 2012–2014 monitoring data.⁹

On May 4, 2016, the EPA published its determination that the Denver Area, among other areas, had failed to attain the 2008 8-hour ozone NAAQS by the attainment deadline, and that it was accordingly reclassified to Moderate ozone nonattainment status.¹⁰ Colorado submitted SIP revisions to the EPA on May 31, 2017 to meet the Denver Area’s requirements under the Moderate classification.¹¹ The EPA took final action on July 3, 2018, approving the majority of the May 31, 2017 submittal, but deferring action on portions of the submitted Reg. 7 RACT rules.¹² On February 24, 2021, the EPA took final action approving additional RACT SIP obligations for Moderate ozone nonattainment areas.¹³

⁵ 40 CFR 50.15(b).

⁶ Final rule, Air Quality Designations for the 2008 Ozone National Ambient Air Quality Standards, 77 FR 30088 (May 21, 2012).

⁷ *Id.* at 30110. The nonattainment area includes Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas and Jefferson Counties, and portions of Larimer and Weld Counties. *See* 40 CFR 81.306.

⁸ 40 CFR part 50, appendix I.

⁹ *See* 40 CFR 51.903.

¹⁰ Final rule, Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Several Areas for the 2008 Ozone National Ambient Air Quality Standards, 81 FR 26697 (May 4, 2016).

¹¹ CAA section 182, 42 U.S.C. 7511a, outlines SIP requirements applicable to ozone nonattainment areas in each classification category. Areas classified Moderate under the 2008 8-hour ozone NAAQS had a submission deadline of January 1, 2017 for these SIP revisions. 81 FR at 26699.

¹² 83 FR at 31068.

¹³ 86 FR 11125.

Areas that were designated as Moderate nonattainment were required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2018, based on 2015–2017 monitoring data.¹⁴ On December 26, 2019, the EPA published its determination that the Denver Area, among other areas, had failed to attain the 2008 8-hour ozone NAAQS by the attainment deadline, and that it was accordingly reclassified to Serious ozone nonattainment status.¹⁵

SIP Control Measures, Reg. 7

Colorado’s Reg. 7, entitled “Control of Ozone via Ozone Precursors and Control of Hydrocarbons via Oil and Gas Emissions,” contains general RACT requirements as well as specific emission limits applicable to various industries. The EPA approved the repeal and re-promulgation of Reg. 7 in 1981,¹⁶ and has approved various revisions to parts of Reg. 7 over the years. In 2008, the EPA approved revisions to the control requirements for condensate storage tanks in Section XII,¹⁷ and later approved revisions to Reg. 7, Sections I through XI and Sections XIII through XVI.¹⁸ The EPA also approved Reg. 7 revisions to Section XVII.E.3.a establishing control requirements for rich-burn reciprocating internal combustion engines.¹⁹ In 2018 the EPA approved Reg. 7 revisions in Sections XII (VOC emissions from oil and gas operations) and XIII (emission control requirements for VOC emissions from graphic art and printing processes), as well as non-substantive revisions to numerous other parts of the regulation.²⁰

Most recently, in 2021 the EPA approved Reg. 7 revisions in Sections I (Applicability), IX (Surface Coating Operations), X (Use of Cleaning Solvents), XIII (Graphics Arts and Printing), XVI (Controls of Emissions from Stationary and Portable Engines and Other

¹⁴ See 40 CFR 51.903.

¹⁵ Final rule, Finding of Failure To Attain and Reclassification of Denver Area for the 2008 Ozone National Ambient Air Quality Standard, 84 FR 70897 (Dec. 26, 2019); see 40 CFR 81.306.

¹⁶ Final rule, Colorado: Approval and Promulgation of State Implementation Plans, 46 FR 16687 (March 13, 1981).

¹⁷ Final rule, Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Regulation No. 7, Section XII, Volatile Organic Compounds From Oil and Gas Operations, 73 FR 8194 (Feb. 13, 2008).

¹⁸ Final rule, Approval and Promulgation of State Implementation Plans; State of Colorado; Attainment Demonstration for the 1997 8-Hour Ozone Standard, and Approval of Related Revisions, 76 FR 47443 (Aug. 5, 2011).

¹⁹ Final rule, Approval and Promulgation of Implementation Plans; State of Colorado; Regional Haze State Implementation Plan, 77 FR 76871 (Dec. 31, 2012).

²⁰ See 83 FR at 31068, 31071.

Combustion Equipment in the 8-Hour Ozone Control Area), and XIX (Control of Emissions from Specific Major Sources of VOC and/or NO_x in the 8-hour Ozone Control Area). Revisions to incorporation by reference dates to rules and reference methods in Sections II, VI, VIII, IX, X, XII, XIII, XVI and XVII were also approved, as well as non-substantive revisions to numerous other parts of the regulation.²¹

III. Summary of the State's SIP Submittals

We are proposing to take action on Colorado SIP submittals made on four three different dates:

May 14, 2018 Submittal

This submittal contains amendments to Reg. 7 Sections XII (Volatile Organic Compound Emissions from Oil and Gas Operations) and XVIII (Natural Gas-Actuated Pneumatic Controllers Associated with Oil and Gas Operations) to meet RACT for oil and gas sources covered by the EPA's 2016 Oil and Gas CTG.²²

May 8, 2019 Submittal

This submittal contains typographical, grammatical, and formatting corrections to Reg. 7 Sections XII and XVIII that were not acted on in our February 24, 2021 action.²³

May 13, 2020 Submittal

This submittal includes a full reorganization of Reg. 7 into Parts A-E, and amends oil and gas storage tank requirements to establish a storage tank control threshold, updates storage tank monitoring requirements, and aligns related recordkeeping and reporting. The submittal also updates RACT requirements for major sources of VOC and NO_x in the DMNFR area, including expanded categorical combustion equipment requirements in Part E, Section II (formally Section XVI.D.) and new categorical general solvent use requirements in Part C, Section II (formerly Section X.). The submittal also includes updates to the requirements for gasoline transport truck

²¹ 86 FR 11125 (Feb. 24, 2021).

²² Control Techniques Guidelines for the Oil and Natural Gas Industry, EPA-453/B-16-001 (Oct. 2016).

²³ 86 FR 11125.

testing and vapor control systems, and contains typographical, grammatical, and formatting corrections throughout.

IV. Procedural Requirements

The CAA requires that states meet certain procedural requirements before submitting SIP revisions to the EPA, including the requirement that states adopt SIP revisions after reasonable notice and public hearing.²⁴

For the May 14, 2018 submittal, the AQCC provided notice in the Colorado Register on July 22, 2017 and held public hearings on the revisions on October 19 and 20, 2017. The Commission adopted the SIP revisions on November 17, 2017. The SIP revisions became state-effective on December 30, 2017.

For the May 8, 2019 submittal, the AQCC provided notice in the Colorado Register on August 18, 2018 and held a public hearing on the revisions on November 15, 2018. The Commission adopted the SIP revisions on November 15, 2018. The revisions became state-effective on January 14, 2019.

For the May 13, 2020 submittal, the AQCC provided notice in the Colorado Register on September 25, 2019 and held public hearings on the revisions on December 17-19, 2019. The Commission adopted the SIP revisions on December 19, 2019. The SIP revisions became state-effective on February 14, 2020.

Accordingly, we propose to find that Colorado met the CAA's procedural requirements for reasonable notice and public hearing.

V. Reasonably Available Control Technology (RACT) Analysis

A. Background

The CAA requires that SIPs for nonattainment areas implement RACT for each category of VOC sources in the area covered by a CTG and all other major stationary sources of VOC.²⁵

²⁴ CAA section 110(a)(2), 42 U.S.C. 7410(a)(2),

²⁵ CAA section 182(b)(2).

The EPA has defined RACT as the lowest emissions limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility.²⁶ The CAA amendments of 1990 introduced the requirement for existing major stationary sources of NO_x in nonattainment areas to install and operate NO_x RACT.²⁷

The EPA provides guidance concerning what types of controls can constitute RACT for a given source category by issuing CTG and Alternative Control Techniques (ACT) documents.²⁸ States must submit a SIP revision requiring the implementation of RACT for each source category in the area for which the EPA has issued a CTG, and for any major source in the area not covered by a CTG.²⁹

For a Serious nonattainment area, a major stationary source is one that emits, or has the potential to emit, 50 tons per year (tpy) or more of VOC or NO_x.³⁰ RACT can be adopted in the form of emission limitations or “work practice standards or other operation and maintenance requirements,” as appropriate.³¹ In assessing RACT requirements under the Serious classification, the Colorado Air Pollution Control Division (Division) evaluated 31 major sources in their Technical Support Document (TSD),³² in addition to the major sources evaluated under the Moderate classification.

²⁶ Proposed rule, General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas--Supplement (on Control Techniques Guidelines), 44 FR 53761, 53762 (Sep. 17, 1979).

²⁷ CAA Section 182(f).

²⁸ See <https://www.epa.gov/ground-level-ozone-pollution/control-techniques-guidelines-and-alternative-control-techniques> (accessed May 20, 2021) for a list of the EPA-issued CTGs and ACTs (also available within the docket).

²⁹ See CAA section 182(b)(2), 42 U.S.C. 7511a(b)(2)). See also Note, RACT Qs & As— Reasonably Available Control Technology (RACT): Questions and Answers, William Harnett, Director, Air Quality Policy Division, EPA (May 2006), available at https://www3.epa.gov/ttn/naaqs/aqmguide/collection/cp2/20060518_harnett_ract_q&a.pdf.

³⁰ See CAA sections 182(c), 42 U.S.C. 7511a(c).

³¹ See Memorandum, “Approval Options for Generic RACT Rules Submitted to Meet the non-CTG VOC RACT Requirement and Certain NO_x RACT Requirements,” Sally Shaver, Director, Air Quality Strategies & Standards Division, EPA (Nov. 7, 1996), available at https://www.epa.gov/sites/production/files/2016-08/documents/shavermemogenericract_7nov1996.pdf.

³² Technical Support Document for Reasonably Available Control Technology for Major Sources, Dec. 11, 2019. P. 2134 of the May 13, 2020 submittal.

On October 20, 2016, the EPA issued final CTGs for reducing VOC emissions from existing oil and natural gas equipment and processes.³³ Under the schedule in the oil and gas CTG, revisions to SIP RACT provisions for sources covered by the CTG were due on October 27, 2018. Sources covered by the CTG include those located in 2008 ozone NAAQS nonattainment areas classified as Moderate (or higher). The emissions controls determined by the State to be RACT for sources covered by the oil and gas CTG were required to be implemented as soon as practicable, but no later than January 1, 2021.³⁴ In November 2017, the Commission adopted revisions to Reg. 7 that addressed RACT requirements for each category of sources covered by the oil and gas CTG.

In December 2019, the Commission adopted new SIP requirements to include provisions that implement RACT for some major sources of VOC and NO_x by incorporating by reference new source performance standards (NSPS) and/or national emission standards for hazardous pollutants (NESHAP) requirements for specific points at major sources; requiring specific sources to provide RACT analyses to the Division for specified facilities and/or emission points to inform future categorical RACT rulemakings; expanding categorical combustion equipment requirements in Part E, Section II. (formerly Section XVI.D.) to facilities with NO_x emissions greater than or equal to 50 tpy; and establishing categorical RACT requirements for general solvent use.

B. Evaluation

As part of its May 14, 2018 and May 13, 2020 submittals, the Division conducted RACT analyses to demonstrate that the RACT requirements for the oil and gas CTG and certain major sources in the DMNFR 2008 8-hour ozone NAA have been fulfilled. The Division conducted these RACT analyses for VOC and NO_x by listing the state regulation that implements or

³³ Notice of availability, Release of Final Control Techniques Guidelines for the Oil and Natural Gas Industry, 81 FR 74798 (Oct. 27, 2016). *See also* Control Techniques Guidelines for the Oil and Natural Gas Industry, EPA-453/B-16-001 (Oct. 2016).

³⁴ Docket ID No. EPA-HQ-OAR-2015-0216-0238.

exceeds RACT requirements for the CTG category or non-CTG category at issue, and by detailing the basis for concluding that these regulations fulfill RACT, through comparison with established RACT requirements described in the CTG and ACT guidance documents. A summary of our proposed action with respect to each RACT category follows.

Table 1- Source Categories, Proposed Action, and Corresponding Sections of Submittals

Category	Proposed action	Location of RACT demonstration
Aerospace	Approval	Negative declaration. p. 6-3 of Colorado’s Serious State Implementation Plan for the Denver Metro and North Front Range Ozone Nonattainment Area. ³⁵
General solvent use at major sources	Approval	pp. 619-620, 706, 2800, 2803 and Technical Support Document for Reasonably Available Control Technology for Major Sources (document number 56, p. 2134) of the May 13, 2020 submission.
Oil and gas	Approval	Technical Support Document for Reasonably Available Control Technology for the Oil and Gas Industry (document set 38) of the May 14, 2018 submittal. pp. 417-425 of the May 13, 2020 submittal.
Emissions from stationary internal combustion engines and flares at certain major sources.	Approval	pp. 619, 622, 724, 2800-2801, 2803 and Technical Support Document for Reasonably Available Control Technology for Major Sources (document number 56, p. 2134) of the May 13, 2020 submission.

Cited materials are in the docket for this action.

³⁵ See Colorado’s March 22, 2021 submittal, document set 16 (in the docket for this action).

In our July 3, 2018 and February 24, 2021 rulemakings, we approved Colorado’s demonstration of RACT for certain VOC CTG sources³⁶ for the 2008 8-hour ozone standard. Today we are taking action on the RACT demonstrations for Oil and Gas CTG categories and certain additional non-CTG VOC and NOx sources and categories. We have reviewed Colorado’s new and revised VOC rules for the source categories covered by the Oil and Gas CTG, and for major sources of non-CTG VOC and NOx sources for the 2008 8-hour ozone NAAQS, and the demonstrations submitted by Colorado. Based on this review we propose to find that these rules are consistent with the control measures, definitions, recordkeeping, and test methods in the CTG and the CAA, and that they satisfy CAA RACT requirements for the categories in question.³⁷

1. RACT for CTG Sources

Table 2 contains the CTG source category, the EPA reference document, and the corresponding sections of Reg. 7 that fulfill the applicable RACT requirements for the EPA-issued CTGs.³⁸ Colorado’s Reg. 7 contains SIP-approved³⁹ and submitted revisions (see Section VI of this document); we propose to find that these revisions meet RACT requirements for the source category listed in Table 2.

Table 2- Source Category, the EPA’s CTG Reference Document, and Corresponding Sections of Reg. 7 Fulfilling RACT

Source category in DMNFR Area	CTG reference document	Date of CTG	Reg. 7 sections fulfilling RACT
Oil and Gas	Control Techniques Guidelines for the Oil and Natural Gas Industry	2016	Sections XII, XVIII, and revised Section D (proposed for approval in this action).

³⁶ 83 FR at 31069-31070; *see* Proposed Rule, Promulgation of State Implementation Plan Revisions; Colorado; Attainment Demonstration for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, and Approval of Related Revisions, 83 FR 14807, 14814-14815, Tables 5 and 6 (Apr. 6, 2018).

³⁷ *See* <https://www.epa.gov/ground-level-ozone-pollution/ract-information>.

³⁸ *See* the EPA’s TSD for a full analysis of Colorado’s rules as they relate to the EPA’s guidelines and available technical information.

³⁹ *See* 76 FR at 47443 and 83 FR at 31069-31070.

We have reviewed the emission limitations and control requirements for the above source category and compared them against the EPA's CTG document and available technical information in CTG dockets. The EPA has also evaluated the submitted rules and has determined that they are consistent with the CAA, the EPA's regulations, and the EPA's policies. For more information, see the EPA TSD prepared in conjunction with this action. Based on the information in the record, we propose to find that the corresponding sections in Reg. 7 provide for the lowest emission limitation through application of control techniques that are reasonably available considering technological and economic feasibility. Therefore, we propose to find that the control requirements for the oil and gas source category are RACT for all affected sources in the DMNFR Area under the 2008 8-hour ozone NAAQS.

2. RACT for non-CTG Major Sources

In Colorado's Technical Support Document for Reasonably Available Control Technology for Major Sources,⁴⁰ Colorado identified a list of major non-CTG VOC and NO_x sources in the DMNFR Area subject to RACT requirements under a Serious classification. For major VOC and NO_x sources subject to nonattainment area RACT review, Colorado used the construction permit thresholds established in the State's Reg. 3 for determining which emission points to review. Accordingly, emission points exceeding two tpy of VOC at a major VOC source and five tpy of NO_x at a major NO_x source, as reported on a source's Air Pollutant Emission Notice, and that were not part of the Moderate RACT review, were evaluated. We have reviewed the State's May 13, 2020 submittal and find its approach to including these sources in the inventory acceptable. To satisfy the Serious RACT SIP requirement to establish RACT for all existing major sources of VOC and/or NO_x in the DMNFR Area, the Commission incorporated by reference several NSPS and NESHAP regulations. The Division also expanded the stationary combustion equipment standards and developed new general solvent use

⁴⁰ P. 2134 of the May 13, 2020 submittal.

requirements, based on a detailed review of available information on major NO_x and VOC sources in the DMNFR Area, an examination of the EPA RACT/Best Available Control Technology/Lowest Achievable Emission Rate Clearinghouse for similar emission points, and consideration of CAA section 182(b) RACT requirements for other ozone nonattainment areas. Table 3 contains a list of non-CTG source categories, the EPA's reference documents, and the corresponding sections of Reg. 7 that are proposed for approval in this action to fulfill RACT requirements (see Section VI of this document).⁴¹

Table 3- Source Categories, the EPA's reference Documents, and Corresponding Sections of Reg. 7 Proposed for Approval to Fulfill RACT

Source category in the DMNFR Area⁴²	The EPA's reference document or regulation (if applicable)	Reg. 7 sections fulfilling RACT
General solvent use at major sources		Part C, Section II.F (proposed for approval in this action).
Stationary internal combustion engines	NO _x Emissions from Stationary Internal Combustion Engines (EPA-453/R-93-032)	Applicable provisions in Part E, Section II
Flares	40 CFR 60, Subpart A, Section 60.18 General Provisions, General control device and work practice requirements.	Part E, Section III.B.2

We have reviewed the emission limitations and control requirements for the source categories in Table 3 and compared them to the EPA's regulations, ACT documents, available technical information, and guidelines. The EPA has also evaluated the submitted rules⁴³ and has determined that they are consistent with the CAA, the EPA's regulations, and the EPA's policies. For more information, see the EPA TSD prepared in conjunction with this action. Based on the

⁴¹See the EPA's TSD for a full analysis of Colorado's rules as they relate to the EPA's guidelines and available technical information.

⁴² Colorado's major source RACT analysis can be found on pp. 1119-1120 and 1142-1149 of the May 31, 2017 submittal and the Technical Support Document for Reasonably Available Control Technology for Major Sources, November 17, 2016 (pp. 2990-3273 of May 31, 2017 submittal).

information in the record, we propose to find that the corresponding sections in Reg. 7 provide for the lowest emission limitation through application of control techniques that are reasonably available considering technological and economic feasibility. Therefore, we propose to find that the control requirements for the source categories identified in Table 3 are RACT for all affected sources in the DMNFR Area under the 2008 8-hour ozone NAAQS.

VI. The EPA's Evaluation of SIP Control Measures in Reg. 7

We evaluated Colorado's May 14, 2018, May 8, 2019, and May 13, 2020 submittals regarding revisions to the State's Reg. 7 to meet RACT requirements for various source categories. Revisions to Reg. 7 include expansion of categorical combustion equipment requirements; incorporation by reference of certain NSPS and NESHAP requirements for engines and landfill gas flares; RACT analysis requirements for specified facilities and/or emission points; emission control requirements for general solvent use; and updated requirements for gasoline transport truck testing and vapor control systems. The revisions establish RACT requirements for the oil and gas CTG category and emission points at major sources of VOC and NO_x in the DMNFR Area. Reg. 7 revisions also add incorporation by reference dates to rules and reference methods; reorganize and renumber the regulation; and correct typographical, grammatical, and formatting errors. For ease of review, Colorado submitted the full text of Reg. 7 as SIP revisions (with the exception of provisions designated "State Only"). The EPA is only seeking comment on Colorado's proposed substantive changes to the SIP-approved version of Reg. 7, which are described below. We are not seeking comment on incorporation into the SIP of the revised portions of the regulation that were previously approved into the SIP and have not been substantively modified by the State as part of any of these submittals.

As noted above, Colorado designated various parts of Reg. 7 State Only, and in Section I.A.1.c indicated that sections designated State Only are not federally enforceable. The EPA concludes that provisions designated State Only have not been submitted for the EPA's approval,

but for informational purposes. Hence, the EPA is not proposing to act on the portions of Reg. 7 designated State Only, and this proposed rule does not discuss them further except as relevant to discussion of the portions of the regulation that Colorado intended to be federally enforceable.

A. Evaluation

1. May 14, 2018 SIP Submittal

The State's May 14, 2018 SIP submittal contains amendments to Reg. 7, Sections II.B., XII and XVIII to meet RACT for oil and gas sources covered by the EPA's 2016 Oil and Gas CTG. The submittal also includes clarifying revisions and typographical, grammatical, and formatting corrections throughout Reg. 7. We propose to approve the revisions to Sections XII and XVIII included in Colorado's May 14, 2018 submittal as identified in Table 5. All remaining Sections of the May 14, 2018 submittal were approved with our February 24, 2021 action.⁴⁴ Below, we describe in detail Colorado's proposed revisions and the basis for our proposed approval of them. Additional analysis on how revisions meet RACT requirements can be found in the TSD for this action.

a. Section II.

Section II includes general provisions for Reg. 7. The revisions to Section II.B. clarify that the Section XII.L. hydrocarbon threshold and Section XVIII natural gas emission standards serve as VOC indicators and that the SIP does not regulate hydrocarbon emissions.

We propose to find that the revisions clarify Sections XII.L., XVIII.C.1. and XVIII.C.2. and are consistent with CAA requirements and CTGs. We therefore propose to approve the changes in Section II.B.

b. Section XII

Section XII regulates VOC emissions from, and establishes RACT for, oil and gas operations. Section XII applies to operations that involve the collection, storage, or handling of condensate in the DMNFR Area. Changes to Sections XII.A. through XII.D. and XII.F. through

⁴⁴ 86 FR 11125 (Feb. 24, 2021).

XII.F.L. include addition of definitions for terms used in oil and gas operations; clarifications to Colorado's ozone season; updates to the leak detection and repair program; new provisions for centrifugal and reciprocating compressors, natural gas driven diaphragm pumps, and fugitive emissions at well production facilities and natural gas compressor stations; and minor clerical⁴⁵ revisions that do not affect the substance of the requirements.

(i) Section XII.B.

Section XII.B. contains definitions specific to oil and gas operations in Section XII. New definitions were added for "approved instrument monitoring method," "centrifugal compressor," "component," "connector," "custody transfer," "infra-red camera," "natural gas compressor station," "natural gas-driven diaphragm pump," "natural gas processing plant," "reciprocating compressor," and "well production facility." The definitions are clear, straightforward, and accurate.

(ii) Section XII.C.1.

Section XII.C.1. includes provisions that are generally applicable to Section XII. Section XII.C.1.e.(iv) adds a new requirement for combustion devices installed on or after January 1, 2018 and used to comply with Sections XII.J. or XII.K. to be equipped with an operational auto-igniter upon installation. We propose to find that the revisions to Section XII.C.1. meet CAA and RACT requirements, and that they strengthen the SIP.

(iii) Section XII.G.

Section XII.G. includes requirements for natural gas-processing plants in the 8-hour Ozone Control Area. Section XII.G.1. updates the leak detection and repair (LDAR) program applicable to equipment leaks at natural gas processing plants in the DMNFR Area by requiring owners or operators to comply with 40 CFR part 60 (NSPS), Subparts OOOO or OOOOa, instead of complying with NSPS Subpart KKK, which is an earlier NSPS and less stringent.

⁴⁵ When we describe changes as clerical in this proposed action, we are referring to changes like section renumbering; alphabetizing of definitions; minor grammatical, editorial, and typographical revisions; and changes in capitalization.

Subpart KKK requires sources to implement a NSPS Subpart VV level LDAR program, while Subpart OOOO requires sources to implement a NSPS Subpart VVa level LDAR program. The oil and gas CTG recommends a Subpart VVa level LDAR program for equipment at natural gas processing plants. Section XII.G.3. updates compliance dates for owners and operators of existing natural gas processing plants subject to Section XII.G. requirements. We propose to find that the revisions to Section XII.G. meet CAA and RACT requirements, and that they strengthen the SIP.

(iv) Section XII.H.

Section XII.H. sets forth emission reduction requirements for glycol natural gas dehydrators. Section XII.H.6. establishes reporting requirements for sources subject to Section XII.H. The Commission revised references to “ozone season” in Section and XII.H.6. to reflect that the requirements now apply year-round, including during the months of May to September.⁴⁶⁴⁷ We propose to find that the revisions to Section XII.H. strengthen the SIP and meet CAA requirements.

(v) Section XII.J.

Section XII.J. contains new provisions for centrifugal and reciprocating compressors. Section XII.J.1.a. requires that by January 2, 2018, VOC emissions from wet seal fluid degassing systems on wet seal centrifugal compressors located between the wellhead and the point of custody transfer to the natural gas transmission and storage segment must be reduced by at least 95%. Section XII.J.1.b. requires wet seal fluid degassing systems to be equipped with continuous, impermeable covers that are connected through a closed vent system that routes emissions from the wet seal fluid degassing system to the process or control device. Section

⁴⁶ In October 2015, the EPA finalized a revision to the ozone NAAQS that revised the length of Colorado’s ozone season to year-round (Final rule, National Ambient Air Quality Standards for Ozone, 80 FR 65292 (Oct. 26, 2015)).

⁴⁷ We are also approving a similar provision in Section XII.F.4. The provision applies to the system-wide control strategy for condensate storage tanks. In this action, we are proposing approval of the control strategy for individual storage tanks in new Part D, Section I.D. which replaces the system-wide strategy controls in Section XII.

XII.J.1.c. requires annual visual inspections of the cover and closed vent systems for defects that could result in air emissions.

Under Section XII.J.1.d., owners or operators must conduct annual EPA Method 21 inspections of covers and closed vent systems to determine whether they operate with VOC emissions less than 500 ppm. Section XII.J.1.e. requires first attempts at repair to occur no later than five days after detecting defects or leaks, and repairs to be completed no later than 30 days after detection. Section XII.J.1.f. sets forth criteria for delaying inspection or repair due to unsafe conditions and accessibility issues. Owners or operators are required to maintain records of each cover or closed vent system that is unsafe or difficult to inspect and schedule for inspection when circumstances allow.

Section XII.J.1.h. includes recordkeeping requirements to demonstrate compliance with Section XII.J.1. Owners and operators must maintain records for a minimum of five years. As an alternative to the inspection, repair, and recordkeeping provisions, owners and operators may inspect, repair, and document cover and closed vent systems in accordance with the LDAR program in Section XII.L. Section XII.J.1.j. allows owners and operators to comply with emissions, inspections, repair, and recordkeeping provisions of an NSPS including Subparts OOOO and OOOOa in lieu of Sections XII.J.1.a. through i.

Section XII.J.2. contains provisions for reciprocating compressors. Section XII.J.2.a. requires that the rod packing on reciprocating compressors located between the wellhead and the point of custody transfer to the natural gas transmission and storage segment be replaced every 26,000 hours of operation or every 36 months. Under Section XII.J.2.a., owners or operators of existing reciprocating compressors at natural gas processing plants were required to begin monitoring the reciprocating compressor hours of operation on January 1, 2018 and conduct the first rod packing replacement before January 1, 2021, or route emissions to a process beginning May 1, 2018.

Section XII.J.2.b. allows owners or operators the option to reduce VOC emissions by routing reciprocating compressor emissions using a rod packing emissions collection system that operates under negative pressure and routes the rod packing emissions through a closed vent system to a process. Owners and operators must conduct annual visual inspections of the cover and closed vent systems for defects that could result in air emissions. Section XII.J.2.b.(ii) requires owners and operators to conduct annual EPA Method 21 inspections of the cover and closed vent system to determine whether they operate with VOC emissions less than 500 ppm. Section XII.2.e. allows owners and operators to comply with emissions, inspections, repair, and recordkeeping provisions of an NSPS in lieu of Sections XII.J.2.a. through d.

First attempts at repair must be made within five days of discovery, and repairs must be completed within 30 days unless one of the justifications for delay of repair in Section XII.J.2.b.(iv) applies. Owners or operators may delay subsequent repair attempts of equipment where, during a scheduled shutdown, the owner or operator unsuccessfully repaired the leak requiring repair if repair is completed within two years of discovery. Delayed inspection or repairs of the closed vent system may occur under certain safety, accessibility, and feasibility circumstances described in Sections XII.J.2.b.(iv)(A) through (D).

Section XII.J.2.c. includes recordkeeping requirements to demonstrate compliance with Section XII.J.2. Owners and operators must maintain records for a minimum of five years. As an alternative to the inspection, repair, and recordkeeping provisions, Section XII.J.2.d. allows owners and operators to inspect, repair, and document cover and closed vent systems in accordance with the LDAR program in Section XII.L. Section XII.J.2.e. allows owners and operators to comply with emissions, inspections, repair, and recordkeeping provisions of an NSPS, including Subparts OOOO and OOOOa.

We propose to find that the provisions in the new Section XII.J. strengthen the SIP and meet CAA and RACT requirements.

(vi) Section XII.K.

Section XII.K adds requirements for pneumatic pumps. Section XII.K.1 requires that natural gas-driven diaphragm pneumatic pumps at natural gas processing plants have a VOC compound emissions rate of zero. Section XII.K.2. establishes a May 1, 2018 effective date for owners or operators to reduce emissions from natural gas-driven diaphragm pneumatic pumps at well production facilities by 95% within 30 days of startup of the control device or route emissions to a process at the well production facility. Pneumatic pump emissions must be routed to the existing control device even if it is unable to achieve a 95% emission reduction if it is technically infeasible to route emissions to a process. Section XII.K.2.b. requires a 95% reduction from pneumatic pumps within 30 days of startup upon installation of a control device or once routing emissions to a process becomes technically feasible. Pneumatic pump emissions are exempt from controls if an engineering assessment by a qualified professional engineer determines that routing a pneumatic pump to a control device or process is technically infeasible. Pneumatic pumps routing emissions to the process or control device must connect through a closed vent system.

Sections XII.K.2.e. through h. require annual visual and EPA Method 21 inspections of the closed vent system. First attempts at repairs must be made within five days of discovery, and repairs must be completed within 30 days unless one of the justifications for delay of repair in Sections XII.K.2.h. applies. Delayed inspection or repairs of the closed vent system may occur under certain safety, accessibility, and feasibility circumstances described in Sections XII.K.2.h.(i) through (iv).

Section XII.K.3. includes recordkeeping requirements to demonstrate compliance with Section XII.K. Owners and operators must maintain records for a minimum of five years. As an alternative to the inspection, repair, and recordkeeping provisions, XII.K.4. allows owners and operators to inspect, repair, and document cover and closed vent systems in accordance with the LDAR program in Section XII.L. Section XII.K.5. allows owners and operators to comply with

emissions, inspections, repair, and recordkeeping provisions of an NSPS in lieu of Sections XII.K.1. and XII.K.4.

We propose to find that the provisions in the new Section XII.K. strengthen the SIP and meet CAA and RACT requirements.

(vii) Section XII.L.

Section XII.L. establishes a new leak detection and repair (LDAR) program for well production facilities and natural gas compressor stations in the DMNFR Area.

This program, which we are now reviewing for approval into the SIP, took effect under state law beginning June 30, 2018. Under the LDAR program, owners or operators of natural gas compressor stations must inspect components for leaks using an approved instrument monitoring method (AIMM) at least quarterly.⁴⁸ As defined in new section XII.B.3, AIMM means an infra-red camera, EPA Method 21, or another “instrument based monitoring method or program” that is approved in accordance with Section XII.L.8, discussed below. Initial inspections for leaks from components at natural gas compressor stations constructed on or after June 30, 2018 must be conducted no later than 90 days after the facility commences operation and at least quarterly thereafter.

Owners or operators at well production facilities with uncontrolled actual VOC emissions greater than or equal to one ton per year and less than or equal to six tons per year must inspect components for leaks using an AIMM at least annually. Well production facilities with uncontrolled VOC emissions greater than six tons per year must be inspected at least semi-annually. Sections XII.L.2.c. and Section XII.L.2.d. set forth the criteria for determining inspection frequency and the timing of initial inspections. Initial inspections for well production facilities constructed on or after June 30, 2018 must be conducted no sooner than 15 days and no later than 30 days after the facility commences operation. Monitoring components is not required

⁴⁸ The SIP at Reg. 7, Section XII.E.3, already required an “audio, visual, olfactory” (AVO) inspection required for storage tanks subject to control requirements. That requirement remains in effect.

under certain safety, accessibility, and feasibility circumstances described in Sections XII.L3.a. through c.

Section XII.L.4. establishes thresholds for leaks requiring repair under Section XII.L.5. The first attempt to repair an identified leak must be made within five working days of discovery and completed within 30 days unless one of the justifications for delay of repair in Sections XII.L.5.a(i) through (iii) applies. Leaks must be re-monitored within 15 working days of the repair.

Section XII.L.6. requires owners or operators to keep records to demonstrate compliance with the LDAR program and to maintain those records for a minimum of five years. Records include documentation of the initial approved AIMM inspection; facility identification information; leaks requiring repair and monitoring method used to determine presence of the leak; dates of first attempt to repair; dates and types of repairs; delayed repair lists; re-monitoring dates and results; and lists of components designated as unsafe, difficult, or inaccessible to monitor.

Section XII.L.7. requires that each facility's owner or operator submit an annual LDAR report to ensure that the data submitted to the Division accurately represents and summarizes the activities and effectiveness of the LDAR program. Reports should include the number of inspections, leaks requiring repair, leaking component type, and monitoring method by which the leaks were found.

Section XII.L.8. describes the process for review and approval of alternative AIMM for use as a part of the LDAR program. The provisions allow the use of an alternative AIMM in lieu of or in combination with the EPA-approved AIMM (i.e., infra-red cameras or Method 21), if certain conditions are met under Section XII.L.8.a. and if the Division approves the proposal.

Because the alternative AIMM regulation allows the authorization, outside of the SIP approval process, of a leak detection method not specified in the submitted regulatory language or elsewhere in the SIP, we must consider whether it impermissibly allows the state agency to

revise the SIP at its own discretion. Concerns with such rules, often known as “director’s discretion” provisions, are discussed in detail in EPA’s 2015 final rule responding to a petition for rulemaking concerning how SIPs treat excess emissions during periods of startup, shutdown, or malfunction (SSM), often referred to as the “SSM SIP Call” rulemaking.⁴⁹ As explained in the SSM SIP Call, the EPA interprets the CAA as prohibiting “SIP provisions that include unlimited director’s discretion to alter the SIP emission limitations applicable to source.”⁵⁰ But the SSM SIP Call also explains that there are circumstances in which a director’s discretion provision may be consistent with the CAA and fully approvable, including “when the director’s discretion authority is adequately bounded such that the EPA can ascertain in advance, at the time of approving the SIP provision, how the exercise of that discretion to alter the SIP emission limitations for a source could affect compliance with other CAA requirements.”⁵¹ The EPA has long held this position. As explained in a 1996 EPA guidance document, it may be appropriate for states to approve equally stringent source-specific alternatives to SIP-approved requirements, when the SIP includes language “to provide substantive criteria governing the State’s exercise of the alternative requirement authority.”⁵²

Here, the EPA’s view is that the State rule provides sufficient specific, substantive criteria to allow the EPA to evaluate the use of discretion in advance. Most significantly, under the provisions of Section XII.L.8, alternative AIMM must be “capable of achieving emission reductions that are at least as effective as the emissions reductions achieved using an IR camera or Method 21.” This requirement ensures that the State may not use its discretion to approve a

⁴⁹ Final action, State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA’s SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction, 80 FR 33840, 33917-33924 (June 12, 2015).

⁵⁰ *Id.* at 33917.

⁵¹ *Id.* at 33918.

⁵² White Paper Number 2 for Improved Implementation of the Part 70 Operating Permits Program (EPA OAQPS, March 5, 1996), Attachment B (“SIP Provisions For Establishing Alternative Requirements”), available at <https://www.epa.gov/sites/production/files/2015-08/documents/wtppr-2.pdf>.

method that is less effective than the SIP baseline.⁵³ That is, in implementing the alternative AIMM program according to its requirements, which we are proposing to make a part of the SIP, the State will be unable to weaken any SIP provisions.

It is important in reaching this conclusion that we are able to understand the State's process for determining whether an alternative AIMM is "at least as effective" as the two methods specified in the SIP. First, under the submitted rules at Section XII.L.8.a.(ii)(C), an alternative AIMM applicant must provide information on whether the proposed alternative is approved by other regulatory authorities, and for what application. This information will allow the State to assess the reliability and viability of the alternative. In addition, under Section XII.L.8.a.(ii)(D), the applicant must provide information, with supporting data, on the leak detection capabilities and limitations of the proposed alternative method. This data requirement is important to ensuring that the potential exercise of discretion in the alternative AIMM program is adequately bounded.

The State has further explained this process in a guidance document provided to the EPA.⁵⁴ As explained in this document, in evaluating effectiveness, Colorado assumes that a certain level of emission reductions would be achieved using either infrared camera or Method 21 AIMM, on a periodic basis with increasing emission reductions under greater monitoring frequencies, and compares the anticipated results of the proposed alternative AIMM to those numbers.⁵⁵ Testing and modeling of the alternative AIMM is required.⁵⁶ Thus, the State's program includes a *quantitative* evaluation according to specified criteria.

Additional safeguards and constraints in the alternative AIMM process include:

⁵³ See Final Rule, Revisions to Air Plan; Arizona; Stationary Sources; New Source Review, 80 FR 67319, 67327 (Nov. 2, 2015) (approving rule as appropriately bounded because state agency "does not have discretion to determine in which instances it will or won't apply the criteria" in the regulation).

⁵⁴ See Alternative AIMM Guidance & Procedures (CDPHE, Oct. 31, 2019) (EPA-R08-OAR-2021-0262-0003).

⁵⁵ See Alternative AIMM Guidance at 6.

⁵⁶ In this respect the state's guidance, provided to EPA to assist in explaining the functioning of the state program, clarifies one arguable ambiguity in the submitted language. Specifically, the comma after "data" in XII.L.8.a.(ii)(I) leaves unclear whether the rule requires data *or* modeling, or data *and* modeling; the state's guidance makes clear that "and" is intended when it says that modeling should not be relied on exclusively for this demonstration, but that there should be testing as well. See also Letter from Garry Kaufman, Director, Air Pollution Control Division (March 24, 2021) providing clarifying information, available in the docket for this action.

- The Alternative AIMM approval has to be made based on a record.
- The State must provide public notice of the proposed alternative.
- Approved alternative AIMM is made available to the public on a state website:

<https://cdphe.colorado.gov/alternative-aimm-public-notice>.

One final feature of the State's alternative AIMM rule bears mentioning. It includes a requirement that the State agency submit the proposed alternative AIMM to the EPA for review. The alternative AIMM must receive the EPA's approval, but this approval may occur by default if the EPA does not disapprove the rule within six months. While this six-month EPA review period gives an additional opportunity for regulatory scrutiny of alternative AIMM proposals before approval, it is not equivalent to the SIP process, and is not the basis for our proposed approval of this action. Rather, it is because the alternative AIMM rules provide substantive criteria that constrain the State's exercise of discretion and allow the EPA to anticipate the impacts of the use of alternatives. For that reason, and as explained further above, we propose to approve the submitted new section XII.L.

A detailed evaluation of Section XII as a whole is in the TSD for this action. We propose to find that the submitted revisions to Section XII meet CAA and RACT requirements, and that they strengthen the SIP.

c. Section XVIII.

Section XVIII regulates emissions from natural gas-actuated pneumatic controllers located at or upstream of natural gas processing plants, and establishes RACT requirements for oil and gas operations. Section XVIII.C.1. requires that all pneumatic controllers installed on or before February 1, 2009 upstream of natural gas processing plants in the DMNFR Area must emit natural gas emissions in an amount equal to or less than a low-bleed pneumatic controller, unless a high-bleed pneumatic controller is required for safety or process purposes. Section XVIII.C.2. requires that all pneumatic controllers at natural gas processing plants have a bleed rate of zero unless a pneumatic controller with a bleed rate greater than zero is necessary due to

safety and process. Monitoring and recordkeeping requirements are set forth in Sections XVIII.D. and XVIII.E. and include inspection, maintenance, and records demonstrating compliance with emission reduction requirements in Section XVIII.C. Section XVIII.D.2. establishes additional monitoring and maintenance for pneumatic controllers with a natural gas bleed rate greater than zero.

A detailed evaluation of Section XVIII is in the TSD for this action. We propose to find that the revisions to Section XVIII strengthen the SIP and meet CAA and RACT requirements. We therefore propose to approve the changes in Section XVIII.

2. May 8, 2019 Submittal

The State's May 8, 2019 submittal contains typographical, grammatical, and formatting corrections to Reg. 7 Sections XII and XVIII that were not acted on in our February 24, 2021 action.⁵⁷ The revisions do not change the substance of approved SIP provisions. We therefore propose to approve the revisions in Sections XII and XVIII.

3. May 13, 2020 SIP Submittal

The State's May 13, 2020 SIP submittal contains amendments to Reg. 7, including a full reorganization of the regulation into Parts A-E. Table 4 show the current Reg. 7 numbering as related to the proposed Reg. 7 renumbering.

Table 4 – Current and Reorganized Reg. 7 Sections

Current Reg. 7 Sections	Reorganized Reg. 7 Sections
Part A	
I. Applicability	Part A, Section I.
II. General Provisions	Part A, Section II.
Appendix A. Colorado Ozone Nonattainment or Attainment Maintenance Areas	Part A, Appendix A
Part B	
III. General Requirements for Storage and Transfer of Volatile Organic Compounds	Part B, Section I.
IV. Storage of Highly Volatile Organic Compounds	Part B, Section II.
V. Disposal of Volatile Organic Compounds	Part B, Section III.

⁵⁷ 86 FR 11125.

VI. Storage and Transfer of Petroleum Liquids	Part B, Section IV.
VII. Crude Oil	Part B, Section V.
VIII. Petroleum Processing and Refining	Part B, Section VI.
XV. Control of Volatile Organic Compound Leaks from Vapor Collection Systems and Vapor Control Systems Located at Gasoline Terminals, Gasoline Bulk Plants, and Gasoline Dispensing Facilities	Part B, Section VII
Appendix B. Criteria for Control of Vapors from Gasoline Transfer to Storage Tanks	Part B, Appendix B
Appendix C. Criteria for Control of Vapors from Gasoline Transfer at Bulk Plants (Vapor Balance System)	Part B, Appendix C
Appendix E. Test Procedures for Annual Pressure/Vacuum Testing of Gasoline Transport Tanks	Removed (paragraphs B and E moved into section, and references replaced with EPA Method 27).
Part C	
IX. Surface Coating Operations	Part C, Section I.
X. Use of Cleaning Solvents	Part C, Section II.
XI. Use of Cutback Asphalt	Part C, Section III.
XIII. Graphic Arts and Printing	Part C, Section IV.
XIV. Pharmaceutical Synthesis	Part C, Section V.
Appendix D. Minimum Cooling Capacities for Refrigerated Freeboard Chillers on Vapor Degreasers	Part C, Appendix D
Appendix F. Emission Limit Conversion Procedure	Part C, Appendix E
Part D	
XII. Volatile Organic Compound Emissions from Oil and Gas Operations	Part D, Section I
XVII. (State Only, except Section XVII.E.3.a., which was submitted as part of the Regional Haze SIP) Statewide Controls for Oil and Gas Operations and Natural Gas-Fired Reciprocating Internal Combustion Engines.	Part D, Section II
Part E	
XVI.A.-C. (natural gas fired reciprocating internal combustion engines in the 8-hour ozone control area) and XVII.E. (new, modified, existing, and relocated natural gas fired reciprocating internal combustion engines).	Part E, Section I.
XVI.D. Control of Emissions from Stationary and Portable Combustion Equipment in the 8-Hour Ozone Control Area.	Part E, Section II.
XIX. Control of Emissions from Specific Major Sources of VOC and/or NO _x in the 8-Hour Ozone Control Area	Part E, Section III.

The State's May 13, 2020 SIP submittal also updates requirements for gasoline transport trucks, bulk terminals, and service stations; establishes a storage tank control threshold in lieu of the current system-wide control strategy; strengthens storage tank monitoring requirements; aligns related recordkeeping and reporting; and adds RACT requirements for major sources of VOC and/or NO_x in the 8- hour Ozone Control Area. The submittal also includes clarifying revisions and typographical, grammatical and formatting corrections throughout Reg. 7. We propose to approve the revisions to Reg.7 included in Colorado's May 13, 2020 submittal as identified in Table 5. Below, we describe in detail Colorado's proposed revisions and the basis for our proposed approval of them. Additional analysis on how revisions meet RACT requirements can be found in the TSD for this action.

a. Part A

The revisions add a new Part A heading, encompassing Sections I and II. Part A contains applicability and general provisions for Reg. 7. The revisions also include renumbering and updates to Parts and Sections referenced throughout Part A. The revisions do not change the substance of SIP approved rules. We therefore propose approval of the changes to Part A.

b. Part B

The revisions add a new Part B heading for Sections I, II, III, IV, V, VI, VII (previously Reg. 7, Sections III through XV). and appendixes B and C. Part B regulates the storage, transfer, and disposal of VOC and petroleum liquids and petroleum processing and refining. The revisions to Reg. 7, Part B, Sections IV and VII update the gasoline transport truck testing and associated recordkeeping requirements and update and clarify the vapor system requirements. Revisions also include renumbering and updates to Parts and Sections referenced throughout Part B.

Section IV (previously Section VI) regulates the storage and transfer of petroleum liquid, and Section VII (previously Section XV) regulates VOC leaks from vapor collection systems

located at gasoline terminals, gasoline bulk plants, and gasoline dispensing facilities. Revisions to Sections IV and VII and the removal of the former Appendix E update requirements for gasoline transport trucks, bulk terminals, and service stations to align with current federal requirements for gasoline transport truck testing and vapor control systems. Section IV.A.2.j. adds a new definition for “vapor collection system.” The definition is clear, straightforward, accurate, and consistent with the definition in Sections IV.D.1.b.(ii) and VII.A.3.c. Revisions made in Section IV.B.3. clarify that vapor collection systems must be leak-tight and properly maintained and operated.

Section IV.D. regulates VOC leaks from gasoline transport trucks. Revision to Sections IV.D.2 and IV.D.3. replace the outdated vacuum-pressure test in the CTG for Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems⁵⁸ with the more current EPA Method 27.⁵⁹ Federal standards in NSPS XX⁶⁰, NESHAP R⁶¹, NESHAP BBBBBB⁶², and NESHAP CCCCCC⁶³ reference the EPA’s Method 27, Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure Vacuum Test, in contrast to the CTG’s pressure-vacuum test. The test values in Reg. 7 Section IV.D.4 were also updated and are based on the EPA’s CTG and correspond to the EPA Method 27 test values in NSPS XX, NESHAP R, NESHAP BBBBBB, and NESHAP CCCCCC. Recordkeeping and certification requirements in Section IV.D.4. were updated to correspond to the EPA’s Method 27 and federal standards.

Under CAA section 110(l), the EPA cannot approve a SIP revision that interferes with any requirement concerning attainment, reasonable further progress, or any other applicable

⁵⁸ Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems, Appendix A, EPA-450/2-78-051. Dec. 1978.

⁵⁹ See also 40 CFR 63.425(e).

⁶⁰ Standards of Performance for Bulk Gasoline Terminals (40 CFR Part 60, Subpart XX (August 18, 1983, last revised December 19, 2003)).

⁶¹ National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations) (40 CFR Part 63 Subpart R (December 14, 1994, last revised April 6, 2006)).

⁶² National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities (40 CFR Part 63, Subpart BBBBBB (January 10, 2008, last revised January 24, 2011)).

⁶³ National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities (40 CFR Part 63, Subpart CCCCCC (January 10, 2008, last revised January 24, 2011)).

requirement of the Act. We propose to find that the revisions to Section IV.D. comply with section 110(l) because the revisions are limited to updating the pressure vacuum test and values to be consistent with more recent EPA regulations for gasoline tank trucks and vapor collection systems, and the changes do not weaken the SIP.

We propose to find that the revisions in Part B are consistent with gasoline transport truck, terminal, and service station control and testing requirements of current NSPS and NESHAP standards and that approval of the submittal would comply with CAA Sections 110(l) and 193. We therefore propose to approve the revisions in Part B.

c. Part C

The revisions add a new Part C heading encompassing Sections I, II, III, IV, V (previously Reg. 7, Sections IX-XI, XIII, XIV) and appendixes D and E (formerly appendixes D and F). Part C regulates surface coating, solvents, asphalt, graphic arts and printing, and pharmaceuticals. The revisions also include renumbering and updates to Parts and Sections referenced throughout Part C, and adds a new categorical rule regulating VOC emissions from and establishing RACT for general solvent use in Section II.F.

Section II.F. addresses VOC emissions from sources with a potential to emit 50 tons per year of VOC and with solvent use emissions greater than or equal to two tons per year in the DMNFR Area. Section II.F.3. sets forth work practice requirements including covering containers, proper disposal of solvent waste, and the use of good air pollution practices such as the use of low/no VOC solvent if possible, using only amounts needed, submerged fill pipes, closed loop systems, and maintaining operations to be leak free. Section II.F.4. requires operations that use solvents with uncontrolled actual VOC emissions greater than or equal to 25 tons per year to reduce emissions by 90%. Sections II.F.5. and 6. set forth monitoring and recordkeeping requirements. Records must be maintained for a minimum of two years. Sources subject to Section II.F.4. requirements are also subject to additional control requirements,

monitoring, performance testing, and recordkeeping requirements for general solvent use operations.

We propose to find that the provisions meet CAA and RACT requirements, and that they strengthen the SIP. We therefore propose to approve the changes in Part C.

d. Part D

The revisions add a new Part D. heading for Sections I, II, and III (previously Reg. 7, Sections XII, XVII, and XVIII), and new Sections IV and V.⁶⁴ Part D regulates oil and natural gas operations. The revisions also include renumbering and updates to Parts and Sections referenced throughout Part D, establishing a storage tank control threshold in lieu of the current system-wide control strategy, strengthening storage tank monitoring requirements, aligning related recordkeeping and reporting, and other SIP cleanup and strengthening measures.

(i) Section I.A.

Section I.A. contains applicability provisions for Part D. The revisions to Section I.A. streamline and clarify sources subject to Part D and remove the exemption associated with the system-wide control program for owners or operators of condensate tanks with total actual uncontrolled VOC emissions less than 30 tpy (previously Section XII.A.7.).

(ii) Sections I.B. and I.C.

Section I.B. contains definitions applicable to Part D. A new definition for “commencement of operation” was added for consistency with Regulation Number 3 and for clarity as to the applicability of other control requirements. New definitions for “intermediate hydrocarbon liquid,” “produced water,” “storage tank,” and “storage vessel” were also added. The definitions are clear, straightforward, accurate.

Section I.C. contains general provisions for Part D. Section I.C.2. specifies how operators must calculate emissions and emission reductions to demonstrate compliance with control

⁶⁴ Parts of the submission, including all of new Sections IV and V, are State Only requirements. We therefore will not be acting on these Sections. The State Only provisions are excluded from the list of provisions that we are acting on in Table 5.

requirements. The revisions in Section I.C.2.a.(iv) expand current provisions to tanks storing produced water or hydrocarbon liquids other than condensate.

(iii) Section I.D.

Section I.D. contains provisions for storage tank emissions controls. In 2004 the Commission adopted the initial system-wide control strategy, which required operators to reduce emissions from their system of condensate tanks. The “system” was composed of condensate tanks with uncontrolled actual VOC emissions equal to or greater than two tpy, and allowed operators to decide which tanks to control if emissions from the “system” were reduced by specified percentages. The revisions in Section I.D. replace the system-wide control strategy with an individual storage tank control strategy in Section I.D.3. Operators in the DMNFR Area were required to install controls on storage tanks with uncontrolled actual VOC emissions equal to or greater than four tpy by May 1, 2020. The control requirements in Section I.D. were expanded to include crude oil and produced water tanks. According to the Division, this will result in more tanks being controlled.⁶⁵ Section I.D.3.a.(i) requires that storage tanks with uncontrolled actual emissions of VOC equal to or greater than four tons per year collect and control emissions from each storage tank by routing emissions to and operating air pollution control equipment that achieves a VOC control efficiency of 95%; combustion devices must have a design destruction efficiency of at least 98% for VOC unless authorized by permit before March 1, 2020. Section I.D.3.c. requires that storage tanks below the four tpy threshold that increase emissions above the threshold must be in compliance within 60 days of the first date of the month in which the threshold was exceeded. The Commission has determined that the four tpy threshold and implementation timetable is cost-effective, technically feasible, and will ensure no backsliding as provided for in the Clean Air Act, Section 110(l).⁶⁶

⁶⁵ See pp. 592-593 of the May 13, 2020 submittal.

⁶⁶ See p. 591 of the May 13, 2020 submission.

Colorado also submitted a provision for inclusion in the SIP that was previously state-only. Section I.D.2.a. requires that operators of newly constructed tanks employ controls during the first 90 days after the date of first production. The provision is proposed for inclusion in the SIP to avoid confusion as to whether compliance with the requirement can be considered a limitation upon a source's potential to emit for purposes of permitting.

(iv) Section I.E.

Section I.E. contains provisions for monitoring of storage tanks and air pollution control equipment. Section I.E. was revised to apply the monitoring requirements for all storage tanks controlled pursuant to Section I.D., which will ensure monitoring of condensate tanks, crude oil, and produced water tanks on a weekly basis per Section I.E.2.c. The required inspections have also been updated to include elements that can impact the performance of well production facility equipment and reduce emissions including checking that burner trays are not visibly clogged, that pressure relief valves are properly sealed, and that vent lines are closed. Inspection documentation requirements in former Section XII.E.3. were removed and moved to Section I.F.2.c.(iii) in order to condense all recordkeeping requirements in Section I.F.

(v) Section I.F.

Section I.F. contains provisions for storage tank recordkeeping and reporting. As a result of replacing the system-wide control strategy with the fixed control threshold in Section I.D., recordkeeping and reporting requirements for demonstrating compliance with Section I.D. were revised in Section I.F. Operators subject to the system-wide control strategy were given until August 31, 2020, to submit the report for the time period in 2020 during which the system-wide control strategy remained effective (*i.e.* January 1 – April 30, 2020). Section I.F.2 contains the recordkeeping and reporting scheme for the tanks subject to the new four tpy control threshold provision. Under Sections I.F.2. and I.F.3., owners or operators of storage tanks subject to Section I.D.3. must maintain records and submit annual reports including information regarding

inspections, calendar monthly VOC emissions, emission factors used, and the control efficiency of air pollution control equipment. Reports must be retained for a minimum of five years.

(vi) Section I.L.

Section I.L. contains provisions for the DMNFR Area leak detection and repair program. Sections I.L.2.a. and I.L.2.b. revised language clarifies that applicability for leak inspections at well production facilities are based on rolling twelve-month emission totals and not a calendar year basis.

(vii) Section II.

Section II contains statewide controls for oil and gas operations. The majority of Section II consists of State Only requirements. However, the Commission submitted previous State Only revisions for inclusion in the SIP to Section II.C.1.b.(ii), which requires that operators of newly constructed tanks employ controls within 90 days of commencement of operation. Previous State Only requirements in Section II.G. were also submitted for inclusion in Colorado's SIP. The provisions require control of emissions coming off a separator after a well is newly constructed, hydraulically fractured, or recompleted. These emissions must be routed to a gas gathering line or controlled by air pollution control equipment. The provisions were submitted for inclusion in the SIP to clarify permitting compliance requirements in Reg. 3.

We propose to find that the revisions to Part D meet CAA and RACT requirements, and that they strengthen the SIP. We therefore propose to approve the changes in Part C.

e. Part E

The revisions add a new Part E heading for Sections I, II, III, and IV (previously Reg 7, Sections XVI, XIX, and XX). Part E regulates emissions from combustion equipment at major sources of RACT. The revisions also include renumbering and updates to Parts and Sections

referenced throughout Part E, add RACT requirements in Colorado's ozone SIP for 50 tpy major sources of VOC and/or NO_x, and other cleanup and strengthening measures.⁶⁷

(i) Section II.

Section II provisions control emissions from stationary and portable combustion equipment in the DMNFR area. Section II.A.1.b. expands the applicability of Section II requirements to stationary combustion equipment at major sources of NO_x as of January 27, 2020. New definitions were added in Section II.A.3. for "ceramic kiln," "dryer," and "furnace" to support the expanded combustion adjustment requirements in Section II.A.6. The definitions are clear, straightforward, and accurate.

Owners or operators of combustion equipment specified in Section II.A.1.b. must comply with emission limits in Section II.A.4. by July 20, 2021. This date is consistent with the EPA's implementation deadline for RACT measures not tied to attainment.⁶⁸ New Sections II.A.4.a.(iii) expands emission limits requirements for boilers over 100 MMBtu/hr larger boilers and Section II.A.4.a.(iv) adds emission limits for boilers between 50 and 100 MMBtu/hr located at sources greater than or equal to 50 tpy of NO_x. Applicability of combustion process adjustment requirements in Section II.A.6. was expanded to include individual pieces of combustion equipment at major sources of NO_x under a Serious classification. The requirements of Section II.A.6.a.(ii) apply to boilers, duct burners, process heaters, stationary combustion turbines, stationary reciprocating internal combustion engines, dryers, furnaces, and ceramic kilns that have uncontrolled actual NO_x emissions equal to or greater than five tpy that existed at major sources of NO_x as January 27, 2020. Sections II.A.6.(v)-(vii) expand combustion process adjustment requirements to dryers, furnaces, and ceramic kilns. Sections II.A.6.b.(viii)(A)-(C)

⁶⁷ The revisions to Sections II.A.1.b., II.A.4.a.(iii) and (iv), II.A.6.a.(ii), and II.A.6.b.(viii)(B) include the placeholder language [EFFECTIVE DATE OF THE RECLASSIFICATION] because the Commission approved the revisions before the EPA finalized reclassification of the DMNFR Area to Serious. The EPA finalized its reclassification of the Area on December 26, 2019. *See* Final rule, Finding of Failure To Attain and Reclassification of Denver Area for the 2008 Ozone National Ambient Air Quality Standard, 84 FR 70897.

⁶⁸ Final Rule, Finding of Failure To Attain and Reclassification of Denver Area for the 2008 Ozone National Ambient Air Quality Standard, 84 FR 70897, 70900 (Dec. 26, 2019).

clarify and expand combustion adjustment frequency requirements, including dates for initial combustion process adjustments.

We propose to find that the revisions to Section II are consistent with CAA requirements, and that they strengthen the SIP.

(ii) Section III

Section III provisions control emissions from specific major sources of VOC and/or NO_x in the DMNFR area. Section III.B.1. establishes emission limits and associated monitoring, recordkeeping, and reporting (MRR) requirements for stationary internal combustion engines at certain major sources to meet RACT. Section III.B.2. sets forth flare requirements and Section III.B.3. establishes MRR requirements for specific emission points at certain major sources to meet RACT. Section III.B.4. requires certain major sources to submit RACT analyses to the Division. We propose to find that the revisions to Sections III.B.1. through 4. strengthen the SIP and meet CAA requirements. We also propose to find that Sections III.B.1. through 2. establishes RACT requirements for certain major sources by incorporating federal regulations.

We propose to find that the revisions to Part E are consistent with CAA requirements, and that they strengthen the SIP. We therefore propose to approve the changes in Part E.

VII. Proposed Action

For the reasons expressed above, the EPA proposes to approve revisions to Sections II, XII, and XVIII of Reg. 7 from the State's May 14, 2018 and May 8, 2019 submittals and Parts A through E from the State's May 13, 2020 submission as shown in Table 5, except for those revisions we are not acting on as represented in Table 6. We are proposing to approve Colorado's determination that the above rules constitute RACT for the specific categories addressed in Tables 2 and 3.

A comprehensive summary of the revisions in Colorado's Reg. 7 organized by the EPA's proposed rule action, reason for proposed "no action" and submittal date are provided in Tables 5 and 6.

Table 5- List of Colorado Revisions to Reg. 7 that the EPA Proposes to Approve

Revised Sections in May 14, 2018, May 8, 2019 and May 13, 2020 Submittals Proposed for Approval.	
<i>May 14, 2018 Submittal</i>	
II.B, XII.A.2, XII.B.1.-XII.B.3., XII.B.6-XII.B.13, XII.B.16-XII.B.21., XII.B.25., XII.C.1.d.-XII.C.1.e., XII.C.1.e.(iv), XII.D., XII.F., XII.F.3.a.(i)-XII.F.3.a.(x), XII.F.5., XII.G., XII.G.1., XII.G.3., XII.G.4., XII.H.3., XII.H.6.a., XII.I., XII.J., XII.J.1, XII.J.1.a.-j., XII.J.2., XII.J.2.a.-e., XII.K., XII.K.1., XII.K.2., XII.K.2.a.-h(iv), XII.K.3., XII.K.3.a., XII.K.a.(i)-(vi), XII.K.4., XII.K.5., XII.L., XII.L.1., XII.L.1.a.-b., XII.L.2., XII.L.2.a.-d., XII.L.3., XII.L.3.a.-c., XII.L.4., XII.L.4.a.-e., XII.L.5., XII.L.5.a.-c., XII.L.6., XII.L.6.a.-i., XII.L.7., XII.L.7.a.-g., XII.L.8., XII.L.8.a., XII.L.8.a.(i)-(ii), XII.L.8.a.(ii)(A)-(I), XII.L.8.a.(iii), XII.L.8.a.(iv), XII.L.8.a.(v), XVIII, XVIII.B.1.-B.3., XVIII.B.5.-11., XVIII.C.-XVIII.C.2.c.(ii), XVIII.D.-XVIII.D.2.b., and XVIII.E.-XVIII.E.2.c.	
<i>May 8, 2019 Submittal</i>	
XII.B.12., XII.B.13., XII.B.20., XIII.G.3., XII.J.1.j., XII.J.2.e., XII.K.5., XVIII.B.1., XVIII.B.5., XVIII.B.7.-9., and XVIII.D.1.b.	
<i>May 13, 2020 Submittal</i>	
Outline of Regulation, PART A, I.A.1.c., I.B.1.c., I.B.2.h., II.B., PART B, I.-I.C., II.--B., III.-III.B., IV.-IV.D.4.e., V.-V.C., VI.- VI.C.4.c.(ii), VII.- VII.B.2.b., Appendix B, V., VIII., Appendix C, PART C, I.-I.O.5.a.(v), II.- II.F.6.j., III.- III.B.3.b., IV- IV.B.5.c.(iii)(B), V.-V.C.1., Appendix D (renumbering), PART D, I.-I.B.27., I.B.29.-I.C.e., I.C.1.e.(iii)-(iv), I.C.2.- I.C.2.a.(v), I.D.- I.D.3.a.(i), I.D.3.b.- I.D.3.b.(iii), I.D.3.b.(v), I.D.3.b.(vii), I.D.3.b.(ix), I.D.4.- I.E.1.a., I.E.2.- I.E.2.c.(ii), I.E.2.c.(iv)- I.E.2.c.(viii), I.F.-I.F.1.d., I.F.1.g.-I.F.1.g.(xii), I.F.1.h.- I.F.2.a., I.F.2.c.- I.F.2.c.(vi), I.F.3., I.F.3.a., I.F.3.c.- I.F.3.c.(i)(C), I.G.-I.H.1., I.H.3.-I.L.8.a.(v), II.C., II.C.1., II.C.1.b.(ii)-(B), II.F, III.-III.B.3., III.B.5., III.B.7.-III.C.2.c.(ii), III.D.-III.D.2.b., III.D.3.b., III.E.-III.E.2.c., PART E, I.-I.D., I.D.3.-I.D.3.a.(ii), II.-II.A.4.b., II.A.4.b.(ii)-II.A.4.c., II.A.4.e.-II.A.8.b.(i), III.-III.B.4.n., IV.-IV.A.7.c	

Table 6- List of Colorado Revisions to Reg. 7 that the EPA is Proposing to Take No Action

On

Revised Sections	Reason for Proposed “No Action”
<i>May 14, 2018 Submittal</i>	Superseded by May 13, 2020 submittal
XII.A.1., XII.A.1.c., XII.A.1.d.(ii), XII.A.2.-7., XII.B., XII.B.4.-5., XII.B.12.-14., XII.B.22.-24., XII.C., XII.C.1.a., XII.C.1.e.(i)-(ii), XII.C.1.f.- (ii), XII.D., XII.D.1., XII.D.2.a.- (i), XII.D.2.a.(vi)-(vii), XII.E., XII.E.2.c., XII.F., XII.F.4.	
<i>May 14, 2018 Submittal</i>	State requested this be “state only” definition. ⁷⁰
XVIII.B.4 ⁶⁹	
<i>May 13, 2020 submittal</i>	Provision not previously approved in the SIP.

⁶⁹ Revised Section III.B.4.

⁷⁰ See March 1, 2021 email and attached letter from Colorado on “Revised Pneumatics SIP Revisions Justification” and May 3, 2021 email from Leah Martland, Colorado Air Pollution Control Division (contained within the docket). The definition for “enhanced response” is in reference to the State Only pneumatics find and fix program and thus not applicable to SIP provisions.

VIII. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference Colorado AQCC Regulation 7 pertaining to the control of ozone via ozone precursors and control of hydrocarbons via oil and gas emissions discussed in section VI of this preamble. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 8 Office (please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section of this preamble for more information).

IX. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. The proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. We are proposing to approve state rules as meeting the CAA standard for RACT, which EPA has defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. Accordingly, we

propose to determine that this rule, if finalized, will not have disproportionately high or adverse human health or environmental effects on minority or low-income populations.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 11, 2021.

Debra H. Thomas,
Acting Regional Administrator,
Region 8.

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